

Remarks

1. Summary of Office Action

In the office action mailed July 9, 2004, the Examiner rejected claims 1-29 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,848,397 (Marsh).

2. Amendments and Pending Claims

The application as filed contained 29 claims. Applicants have amended claims 1, 3, 21 and 27. No new matter was added. Presently pending in this application are claims 1-29, of which claims 1, 3, 21, and 27 are independent, and the remainder are dependent.

The paragraph starting at page 20, line 1, of the specification was amended to correct a typographical error. The specification originally indicated that a start time for an advertisement is 300 seconds after midnight, or 5:00 AM. However, 5:00 AM is 300 minutes after midnight, not 300 seconds. The word "seconds" was replaced with the word "minutes."

3. The Claimed Invention

Applicants' invention is directed to a method and system for managing message-presentation in a subscriber station. Preferably, the message presented is an advertisement, although the message presented could be a message other than an advertisement.

In accordance with Applicants' invention, a server, communicatively linked via a network to a subscriber station, sends a message and a schedule to the subscriber station for presenting the message according to the schedule. Further, the subscriber station may receive (i) a schedule-change order that defines a change to the schedule previously sent to the subscriber station, or (ii) a substitute-schedule to replace a schedule previously sent to the subscriber station.

With respect to the Applicants' claims, all of the pending claims recite (or require by dependency) that the schedule includes a start-time value that indicates when to start presentation of the message. See claims 1, 3, 21, and 27 for this limitation.

Further, many of the pending claims recite (or require by dependency) either sending (or receiving) a schedule for presentation of a message. For instance, independent claims 1 and 3 and their associated dependent claims 2 and 4-20 include the limitation of sending a schedule, and independent claim 21 and its associated dependent claims 22-26 include the limitation of receiving a schedule for presentation of a message.

Further still, other pending claims recite (or require by dependency) a subscriber station comprising a message-presentation schedule that defines a schedule for the presentation of a message. See independent claim 27 (as well as its associated dependent claims 28-29) for this limitation.

4. The Prior Art (Marsh)

In Marsh, the invention is a scheduler system for use in controlling the selection, downloading, and presentation of advertisements to users of a computer system. *See Marsh* at col. 5, lines 6-8. Marsh discloses a client system and a server system which communicate with one another over a network, and three schedulers. *Id.* at col. 5, lines 30-31 and col. 17, line 8. The three schedulers include an advertisement *display* scheduler located at the client system, an advertisement *distribution* scheduler located at the server system, and an advertisement *download* scheduler, also located at the server system. *Id.* at col. 8, lines 35-36, col. 15, lines 30-31, and col. 16, lines 19-20.

An advertisement distribution scheduler (i) generates an assignment of advertisements to users and their computers, and (ii) determines the advertisements eligible for download by the

advertisement download scheduler. *Id.* at col. 15, lines 32-33, and col. 16, lines 24-26. The advertisement distribution scheduler may use demographic information to compute the assignment of advertisements to maximize advertising revenues and minimize system costs. *Id.* at col. 15, lines 54-67.

An advertisement download scheduler controls the transfer of advertisements from a server system to a client system. *Id.* at col. 16, lines 20-22 and *Id.* at Figure 2. Each client system has a given number of advertisements that have actually been downloaded to the client system and a given number of advertisements (stored on server system) that are eligible for download as determined by the advertisement distribution scheduler. Each advertisement has associated with it scheduling information that can be used by the advertisement download scheduler to make decisions as to the order and timing of the *download* of eligible advertisements (to the client system). *Id.* at col. 16, lines 60-64 (emphasis added).

An advertisement *display* scheduler receives all of the advertisements it will show from the server system. *Id.* at Col. 13, lines 56-58. Each advertisement sent to the client system includes control information, such as a priority, an expiration date, and the maximum number of times the advertisement should be shown to a user. *Id.* at col. 8, lines 49-54. Upon receipt of a given advertisement, the advertisement display scheduler assigns the advertisement to one of a plurality of advertisement queues according to the previously assigned priority of the advertisement. *Id.* at col. 8, lines 54-57. After sorting the advertisements in an advertisement queue, a display routine of the advertisement display scheduler steps through the queue, sequentially presenting each advertisement for a predetermined period of time until all of the advertisements in the current advertisement queue have been shown.

5. Response to § 102 Rejections

As noted above, the Examiner rejected claims 1-29 under 35 U.S.C. § 102(b) as being anticipated by Marsh. Under M.P.E.P. § 2131, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Applicants respectfully traverse the anticipation rejection of pending claims 1-29 because Marsh does not disclose or suggest each and every element as recited in any of these claims.

In particular, Marsh fails to teach a schedule that includes a start-time value that indicates when to start presentation of the message, as recited in claims 1, 3, 21, and 27.

At best, Marsh teaches sending an advertisement that includes control information, such as a priority, an expiration date, the maximum number of times the advertisement should be shown to a user, the time since the message was last seen, and the percentage of exposures remaining. However, Marsh does not teach that the control information includes a start-time value indicating when to start presentation of the advertisement.

In rejecting claims 1, 3, 21, and 27, the Examiner did not make a statement regarding a schedule that includes a start time value that indicates when to start presentation of a message. However, in rejecting claim 13, the Examiner indicated that Marsh teaches a scheduling parameter that comprises a date/time to start presentation of the message, and the Examiner cited col. 3, lines 66-67, col. 16, lines 65-67, and col. 17, lines 1-5 in support. With all due respect, these sections cited by the Examiner, as well as the other sections of Marsh, do not teach (i) a scheduling parameter that comprises a date/time to start presentation of the message as recited in claim 13, or (ii) the start time value recited in claims 1, 3, 21, and 27.

With respect to col. 3, lines 66-67 of Marsh, at best, this section teaches scheduling criteria that includes (i) a time to expiration, (ii) a time since the advertisement was last seen, (iii) the maximum number of times to expose a user to the advertisement, and (iv) a percentage of exposures remaining. However, neither this section of Marsh nor any other section of Marsh teaches or suggests that the scheduling criteria includes a date/time to start presentation of the message.

With respect to col. 16, lines 65-67, and col. 17, lines 1-5, these sections of Marsh teach that an advertisement download scheduler determines which advertisements should be downloaded in an expected time-period. At best, these sections teach when an advertisement is downloaded by the advertisement download scheduler to the advertisement display scheduler, but does not teach a scheduling parameter comprising a date/time to start presentation of the message. As noted above, the advertisement display scheduler displays (e.g. presents) the advertisements, not the advertisement download scheduler. For these reasons, Marsh does not teach or suggest every element of claims 1, 3, 21, and 27.

Further, even if Marsh teaches a schedule that includes a start-time value that indicates when to start presentation of the message, which Applicants do not concede, Marsh fails to teach (i) sending to (or receiving into) a subscriber station, a message and a schedule, whereby the subscriber station responsively presents the message according to the schedule, as recited in claims 1, 3, and 21 or (ii) a subscriber station comprising a message-presentation schedule defining a schedule for presentation of a message and a presentation-program to present a message according to the schedule, as recited in claim 27.

At best, Marsh teaches that (i) the server system sends the client system an advertisement with control information, where the control information indicates a maximum number of times to

show the advertisement, time since the message was last seen, a percentage of exposures remaining, an expiration date, and an advertisement priority, (ii) the client system assigns the advertisement to one of a plurality of advertisement queues, based on the advertisement priority sent in the control information, and (iii) the client system presents the advertisement (along with other advertisements) in a sequential order as established in the plurality of advertisement queues and for a predetermined period of time.

In rejecting claims 1, 3, and 21, the Examiner indicated that Marsh teaches sending to (or receiving at) the subscriber station, ... a message and a time-based schedule for presentation of the message, whereby the subscriber station responsively presents the message according to the time-based schedule. The Examiner cited col. 7, lines 40-52; and col. 14, lines 8-10 of Marsh in support, but as far as Applicants can tell, these portions of Marsh state merely that (i) advertisements are transferred to and stored at the client computer, (ii) an advertisement is positioned on a video display as a banner display, and (iii) a banner display can be replaced or updated by another stored advertisement after a predetermined period of time has elapsed. However, claims 1, 3, and 21 recite sending (or receiving) a message and a schedule, wherein the schedule provides a start-time value that indicates when to start presentation of the message. The portions of Marsh cited by the Examiner with respect to claims 1, 3, and 21 (as well as the rest of Marsh), do not teach sending (or receiving) a schedule that provides a start-time value that indicates when to start presentation of the message in combination with the other elements recited in claims 1, 3, and 21.

The Examiner also cited col. 5, lines 29-35; col. 6, lines 22-26; and col. 15, lines 31-34 of Marsh in support, but as far as Applicants can tell, these portions of Marsh state merely that an e-mail system includes a client system and a server system and that the server system includes an

advertisement *distribution* scheduler for (i) generating an assignment of advertisements to users and their computers, and (ii) delivering advertisements for subsequent presentation to the user. However, as noted above, Marsh teaches that the advertisement distribution scheduler merely determines which advertisements will be downloaded to the client system by the advertisement download scheduler and that the advertising download scheduler is the scheduler that transfers advertisements and control information to the advertisement display scheduler. After transfer of advertisements and control information to the advertisement display scheduler, the advertisement display scheduler (i) assigns the advertisements to an advertisement queue based on the assigned priority contained in the control information, and (ii) presents the advertisements in sequential order for a predetermined period of time. Since these portions of Marsh (as well as the rest of Marsh) teach that the advertisement queues assignments are based on priority and not on a schedule that includes a start-time value that indicates when to start presentation of the message, Marsh does not teach sending (or receiving) a schedule that provides a start-time value that indicates when to start presentation of the message. For these additional reasons, Marsh does not teach or suggest all of the elements of claims 1, 3, and 21.

Further still, in rejecting claims 3 and 21, the Examiner indicated that Marsh teaches a schedule change order that defines a change to the schedule for presentation of the message. The Examiner cited col. 16, lines 60-64 of Marsh in support, but as far as Applicants can tell, this portion of Marsh merely states that each advertisement has associated scheduling information that the advertisement download scheduler can use to make decisions as to the order and timing of downloading an advertisement to the advertisement display scheduler in the client system. Although Marsh teaches the advertisement download scheduler uses scheduling information, Marsh does not teach that the advertisement download scheduler (or any other device) sends the

scheduling information to a subscriber station or that scheduling information defines a change to a schedule for presentation of the message. For these additional reasons, Marsh does not teach or suggest all of the elements of claims 3 and 21.

In rejecting claim 27, the Examiner indicated that Marsh teaches a message-presentation schedule that defines a schedule for presentation of a message. The Examiner cited col. 7, lines 40-52 and col. 14, lines 8-10 of Marsh in support, but as far as Applicants can tell, these portions of Marsh state merely that (i) advertisements are transferred to and stored at the client computer, (ii) an advertisement is positioned on a video display as a banner display, and (iii) the banner display can be replaced or updated by another stored advertisement after a predetermined period of time has elapsed. Although Marsh teaches that advertisements and control information are transferred to a client system and that an advertisement can replace a currently displayed advertisement after the currently displayed advertisement has been displayed for a predetermined period of time, as noted above with respect to claims 1, 3, and 21, Marsh does not teach a schedule that includes a start-time value that indicates when to start presentation of the message. For this reason, Marsh does not teach the message presentation schedule, as recited in claim 27.

Furthermore, in rejecting claim 27, the Examiner indicated that Marsh teaches (i) a presentation program ... executable by the processor to present the message according to the schedule for presentation of the message, and (ii) a management-program ... executable by the processor, upon receipt of a schedule change-order ... to alter the message presentation schedule. The Examiner cited col. 5, lines 50-67 of Marsh in support, but as far as Applicants can tell, this portion of Marsh states merely that the client system includes a central processing unit (CPU) for executing computer programs and controlling operation of the client system and that a permanent storage device is communicatively coupled to the CPU. However, as noted above, Marsh does



not teach the message-presentation schedule of claim 27 and thus Marsh does not teach (i) the management program to alter the message-presentation schedule, or (ii) the presentation-program to present the message according to the schedule. For these additional reasons, Marsh does not teach or suggest all of the elements of claim 27.

Because Marsh does not teach or suggest all of the elements in claims 1, 3, 21, and 27, Marsh fails to anticipate these claims under § 102. Further, because each of claims 2, 4-20, 22-26, and 28-29 depend from claim 1, 3, 21, or 27, Marsh necessarily also fails to anticipate claims 2, 4-20, 22-26, and 28-29 as well.

6. Conclusion

For the foregoing reasons, Applicants submit that claims 1-29 are in condition for allowance. Therefore, Applicants respectfully request favorable reconsideration and allowance of all of the claims.

Respectfully submitted,

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